

Before the  
Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies  
Committee on Appropriations  
United States House of Representatives

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Testimony of Benoit Cossart

Good morning Mr. Chairman and Members of the Committee. I am Benoit Cossart, Business Director of the Pharmaceutical Ingredients Business Unit of Rhodia Inc. Until March of this year, my business operated the last plant in the United States producing aspirin. That plant was located in St. Louis and for many years was owned and operated by Monsanto Company. For the past five years, it has been owned and operated by Rhodia.

Today, I would like to discuss the impact of the antidumping law on our business. In May 1999, we filed an antidumping petition against imported aspirin from China. At that time, Chinese aspirin was being sold at prices in many cases less than half of our price. Our plant in St. Louis was losing money. And, our largest customers in the generic market were rapidly shifting to Chinese aspirin.

Almost from the beginning of the antidumping case, the Commerce Department began shifting its methodology and sources for information. For example, phenol is a major raw material used to make aspirin. Only a few days before the final decision in our case, the Commerce Department used **domestic prices** in India to value phenol in the case of Sebacic Acid. For the aspirin case, however, Commerce used **import prices** to calculate the value of phenol. There is a significant difference between Indian import and

India domestic prices and this decision by Commerce impacted the aspirin cost calculation by as much as 20%.

Commerce justified this departure from its own precedent on the grounds that Indian import duties were high with respect to phenol. Yet, the record showed that Indian aspirin companies purchase domestic phenol, not imports.

Turning to another issue, Commerce also changed methodologies with respect to overhead. In the original investigation, Commerce recognized that the Chinese aspirin makers were fully integrated producers. That is, the Chinese producers were like Rhodia or Bayer, producing aspirin with a 2 step integrated process. Attachment 1 to my testimony presents a simplified diagram of these production steps.

The problem with calculating overhead costs arose because the Indian surrogate companies were not fully integrated but only practicing one of the 2 steps. For example Andhra Sugars, only practices step 2 (from salicylic acid to aspirin), while the other two surrogate companies practice only step 1, not actually producing aspirin but only the intermediate.

In the original determination in 2000, Commerce applied an average overhead rate for the different steps of production. Through this methodology, Commerce tried to adjust the overhead rate so that the dumping margin would reflect the fact that Chinese aspirin producers were fully integrated, but Indian surrogate were not. On appeal to the Court of International Trade, the court remanded this issue to obtain an explanation why such an approach was supported by the record.

Instead of explaining the difference in integration, Commerce took the opposite approach. Commerce presumed that the Indian and Chinese companies were equally integrated. It then found that the U.S. industry had failed to submit sufficient evidence to contradict this presumption. At the same time, Commerce did not allow Rhodia to submit any new information.

I should point out that two of the three Indian surrogate companies used by Commerce were not even suggested by the U.S. industry. We suggested Andhra Sugars as a surrogate, because that company actually produced aspirin. The Chinese producers supplied annual reports for the two Indian companies that only made the intermediate through step 1—but not aspirin. However, Commerce did not request any additional information from the Chinese producers or require the Chinese companies to prove that the Indian surrogates were integrated.

In the end, Commerce changed its methodology in a manner that placed the burden on U.S. producers to supply information from companies in India. We were confronted with the need to supply information from the books and records of companies in India, when we had not even suggested that Commerce should rely upon those companies or their data.

In my view, this change in methodology was devastating to the antidumping order. A fully integrated aspirin producer, such as Rhodia or Bayer, has very high overhead costs, on the order of 75 percent or more of the costs of raw material and labor. The Indian surrogates had factory overhead costs of 20 percent or less. This huge disparity reflected the fact that the Indian companies did not operate an integrated

process: they did not operate the same equipment or perform the same number of production steps.

In the end, after the first administrative review, Commerce again changed its methodology. Commerce now only uses the overhead rate from a single Indian producer—the one with the lowest overhead rate. It does not take into account the fact that this producer must purchase intermediate chemicals to make aspirin because it is not fully integrated. Commerce has in effect rewarded the Chinese producers for finding the annual report of this company, but it has not imposed any burden on the Chinese to submit evidence showing that the company is fully integrated.

At the outset, I stated that we have closed the only remaining U.S. aspirin producer. Our decision was based upon many factors and upon global conditions in the market. However, the lack of protection from dumping contributed significantly to our decision. When the antidumping order was originally published, we regained several customer accounts and our plant again became profitable. When Commerce changed its methodology, however, the antidumping duties disappeared and our accounts were again under attack by Chinese imports.

I sincerely hope that our experience will not be shared by other U.S. industries and I thank you for this opportunity to testify.

## Attachment 1

### Diagram of Aspirin Production Process

